IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Applicant:	Catherine A. Phillips	**Group Art Unit**:	1644
Serial No.:	10/530,736	**Examiner**:	Dubrino, Marianni NMN
Filed:	January 6, 2006	**Confirmation No.**:	2610

For: Detection, Localization and Staging of Tumor Using Labeled Activated Lymphocytes Directed to a Tumor Specific Epitope

Response

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Remarks

Applicant herein responds to the Office action dated 20 February 2009 that sets forth a species election. Transmitted herewith please find a 5-month extension, and fee, extending the response period through 20 August 2009.

Claims 1 through 28 are pending. With this response, no claims have been amended.

CERTIFICATE OF ELECTRONIC SUBMISSION

I certify that this paper (along with anything referred to as being attached or enclosed) is being submitted via the PTO's EFS portal on the date shown below and is addressed to: Mail Stop AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

14 August 2009
Date of Transmission

/Lauren Bisher/
Lauren Bisher

Turning to the species election, the Office has issued what appears to be a species election on the premise that the invention of claim 1 is "directed to more than one species of the generic invention." Applicant traverses for the simple reason that there is no requirement in the patent law, regulations, or PTO rules that precludes generic claims or that requires that an applicant elect only a single species of a particular invention for purposes of examination. Moreover, even though the Office action alleges that two references, Mukherjl, et al. and Swift, et al. teach the method of claim 1 – a point with which Applicant respectfully disagrees – this allegation is irrelevant in the restriction, species election, or unity of invention context for it relates to issues of novelty/anticipation and non-obviousness/inventive step.

Applicant also respectfully points out the invention of claim 1 is related to methods for detecting and localizing cell-specific antigen in a mammal through a process that comprises the following steps:

a. obtaining PBMCs from a mammal [claim 1, step (a)];

b. exposing the PBMCs to a peptide that displays an immunogenic epitope of the desired cell-specific antigen under conditions that allow T lymphocytes in the PBMCa undergo antigen-specific activation to produce T lymphocytes that bind to the particular cell-specific antigen [claim 1, step (b)];

c. producing labeled antigen-specific T lymphocytes by labeling the T lymphocytes specific for the particular antigen with a label that can be detected by imaging [claim 1, step (c)];

d. administering the labeled antigen-specific T lymphocytes to the mammal [claim 1, step (d)]; and

e. determining the distribution of the labeled antigen-specific T lymphocytes in the mammal by imaging, thereby detecting and localizing the cell-specific antigen in the mammal [claim 1, step (e)].

As the foregoing makes clear, claim 1 is not directed to a particular T cell type or antigenic peptide, label, mode of administration, or imaging technique and it makes no difference that particular populations of T cells, types of antigens, label species, modes of administration, and imaging techniques exist and can be used to practice what indeed is a generic invention. The Office's apparent focus on the fact that different species of T-cell reactive peptides, label species, modes of administration, imaging techniques, etc. can be used and are patentably distinct misses